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TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [AU](#)
SUBJECT: AUSTRIA -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. (A) STATE 59732
[1](#)B. (B) STATE 005577

[1](#)1. This is an action cable; see paras 5 through 7 and 10.

[1](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[1](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Austria of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Austria and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

[1](#)4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

[1](#)5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Austria of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[1](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be

judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

17. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

18. Begin Final Text of Austria,s country narrative in the 2009 TIP Report:

Austria (TIER 1)

Austria is a transit and destination country for women and children trafficked from Romania, Bulgaria, Hungary, Moldova, Belarus, Ukraine, Slovakia, Nigeria, and sub-Saharan Africa for the purposes of commercial sexual exploitation and forced labor. Some of these women are trafficked through Austria to Italy, France, and Spain. Women from Africa are trafficked through Spain and Italy to Austria for the purpose of sexual exploitation. There are reports of some trafficking of foreign women and children for the purpose of forced domestic servitude and forced begging within Austria.

The Government of Austria fully complies with the minimum standards for the elimination of trafficking. The government convicted an increased number of trafficking offenders, improved its funding for victim protection, and continued to undertake proactive prevention campaigns in 2008.

Recommendations for Austria: Ensure that a majority of convicted traffickers serve adequate time in prison; continue to improve victim identification and protection by establishing a formal and systematic identification and referral process; establish systematic care and support for children who are victims of trafficking; improve identification and services for men who are potential victims of forced labor trafficking; continue to collect comprehensive national law enforcement data on trafficking and improve the collection of victim assistance statistics; and take measures to reduce domestic demand for commercial sex acts.

Prosecution

The Austrian government demonstrated adequate anti-trafficking law enforcement efforts over the reporting period. Article 104(a) of the Austrian Criminal Code prohibits trafficking for both sexual exploitation and forced labor. Prosecutors typically use Articles 104(a) and 217 of the criminal code as well as Article 114 of the Aliens Police Act to prosecute traffickers. Penalties prescribed in Article 104(a) and Article 114 range up to 10 years, imprisonment while penalties prescribed in Article 217 range from six months, to 10 years, imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other grave crimes, such as rape. In 2008, police conducted 50 trafficking investigations, compared to 89 investigations conducted in 2007. Prosecution and conviction data for 2008 were unavailable at the time of this Report; however, in 2007, 30 trafficking offenders for whom trafficking was the leading charge were convicted, an increase from 18 such convictions in 2006. Also in 2007, there were fewer suspended sentences for those convicted of trafficking, and some sentences slightly increased. In 2007, 14 convicted traffickers did not receive suspended sentences.

Two of these traffickers received three to five years, imprisonment, eight received one to three years, imprisonment, two received six to 12 months, imprisonment, and two received three to six months, imprisonment. Three traffickers received suspended sentences and one received a suspended fine in 2007.

Protection

The Government of Austria demonstrated some improvement in its victim assistance efforts in 2008 by increasing funding

to a key anti-trafficking NGO that provided shelter and assistance to victims in Vienna. In 2008, it provided \$542,700 to this NGO, compared to \$436,800 provided in 2007. Federal and local governments continued to fund seven immigration and domestic abuse centers that assisted victims outside of Vienna. Police and NGOs identified a combined total of 203 trafficking victims in 2008, up from 170 in 2007. All of the victims were foreign provided with counseling; however, only 37 of these identified victims received shelter from the government-funded NGO. The remaining 166 victims received assistance in the form of social and legal counseling in their native language, German-language classes, computer courses, and health prevention. Police referred 60 of these victims to the Vienna-based NGO for assistance; however, the government does not have formal and systematic procedures for the identification and referral of victims. The government encouraged victims to assist with investigations and prosecutions of traffickers. Austrian authorities provided victims with a 30-day reflection period, a time for victims to receive immediate care and assistance while they consider whether to assist law enforcement. Victims who agreed to cooperate with law enforcement qualified for temporary residence

The government reported that it made proactive efforts to identify trafficking victims among Austria's sizable, legal commercial sex sector. The government reportedly ensured that victims were not penalized for unlawful acts committed as a direct result of being trafficked. The government provided foreign victims of trafficking with legal alternatives to their removal through a temporary resident permit of at least six months.

Prevention

Austria continued its proactive efforts to prevent trafficking through public awareness-raising activities in 2008. It subsidized several TV programs about trafficking throughout the reporting period and hosted a number of conferences aimed at raising awareness of child trafficking and improving data collection on this issue throughout the EU. In April 2008, the government staged an event commemorating the 10th anniversary of its key anti-trafficking NGO, which included panel discussions and lectures on trafficking. In conjunction with the European Soccer Championship, in June 2008 the government subsidized and widely distributed a brochure to inform women in prostitution about their rights and to sensitize the public. The brochure sensitized soccer championship visitors to the fact that women in prostitution may be trafficking victims. However, domestic awareness efforts continued to be largely directed at victims of trafficking rather than clients of Austria's legal and regulated sex trade. There were approximately 2,800 legal and illegal brothels operating in Austria during the reporting period. The government published a brochure on child trafficking in 2008 to raise awareness and provide advice on assisting this population of victims. The government funded an NGO-provided course to sensitize Austrian troops on human trafficking before they were deployed on international peacekeeping missions. The Austrian government reportedly monitored its borders for signs of trafficking and border officials screened travelers to identify potential trafficking victims. Austrian law allows the extraterritorial prosecution of Austrian nationals who travel abroad to engage in child commercial sexual exploitation. In 2008, it continued a campaign to encourage tourists and travel agencies to report cases of child sex tourism. It did not report any investigations or prosecutions of such activity.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000

Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in

persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Austria given a ranking of Tier 1?

¶A. The Government of Austria fully complies with the minimum standards for the elimination of trafficking.

Q2: What progress has Austria made in the past year?

¶A. The government convicted an increased number of trafficking offenders, improved its funding for victim protection, and continued to undertake proactive prevention campaigns in 2008.

Q3: What can Austria do to improve its fight against trafficking in persons?

¶A. To improve its anti-trafficking performance, the Government of Austria could: ensure that a majority of convicted traffickers serve adequate time in prison; continue to improve victim identification and protection by establishing a formal and systematic identification and referral process; establish systematic care and support for children who are victims of trafficking; improve identification and services for men who are potential victims of forced labor trafficking; improve the collection of victim assistance statistics; and take measures to reduce domestic demand for commercial sex acts.

¶12. The Department appreciates posts, assistance with the preceding action requests.

CLINTON